

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOHN DALE PREACHER,)	
)	
Plaintiff,)	Civil Action No.19-1207
)	
v.)	Judge Cathy Bissoon
)	
CORRECT CARE SERVICES, <i>et al.</i> ,)	Magistrate Judge Richard A. Lanzillo
)	
Defendants.)	

MEMORANDUM ORDER

This case has been referred to United States Magistrate Judge Richard A. Lanzillo for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Local Rule of Civil Procedure 72.

On October 3, 2019, Plaintiff John Dale Preacher (“Plaintiff”) filed a Motion and Memorandum of Law in Support of Plaintiff’s Motion for a Temporary Restraining Order and Preliminary Injunction, (“Plaintiff’s Motion,” Doc. 9). In his Motion, Plaintiff asserts that he has been wrongfully placed in a specific prisoner unit and is being subjected to a “reign of terror” there. He alleges that a conspiracy exists to house him in his current location and asks the Court to enjoin prison officials from committing unlawful acts against him.

On October 11, 2019, Magistrate Judge Lanzillo filed a Report and Recommendation, (“R&R,” Doc. 11) recommending that Plaintiff’s Motion be denied. Specifically, Magistrate Judge Lanzillo indicated that Plaintiff had raised these allegations in another lawsuit, and after careful consideration, no preliminary injunction was issued. R&R at 4. Upon review of this Motion, Magistrate Judge Lanzillo concluded the core of Plaintiff’s allegations remained the same and Plaintiff remained unable to show the irreparable harm required for a temporary

restraining order or preliminary injunction. Objections to the R&R were to be filed by October 28, 2019. (Doc. 11.) Plaintiff's Objections were docketed on November 6th, 7th, and 18th, and Plaintiff also filed documents in further support of his Motion on November 13th and 18th. (Docs. 14, 15, 17; 16 and 18.)

After a review of Plaintiff's Motion, the R&R, all of Plaintiff's untimely Objections, and the documents in this case,¹ the undersigned finds that Magistrate Judge Lanzillo's decision with respect to Plaintiff's request for a Temporary Restraining Order is not clearly erroneous or contrary to law. Plaintiff simply does not meet the requirements of Federal Rule of Civil Procedure 65(b). However, with respect to the preliminary injunction Plaintiff seeks, the undersigned notes that the R&R appears to base its conclusion that a preliminary injunction is inappropriate in this case on the fact that the same reasons were not an appropriate basis for an injunction in another case. R&R at 4 ("[N]early identical claims of irreparable harm were already rejected in Preacher's other case."). However, there has not been a ruling on the preliminary injunction in that case. See Case No. 1:17-18, Doc. 114 (deferring ruling on Plaintiff's request for a preliminary injunction).

Therefore, it is ORDERED that the R&R is AFFIRMED IN PART, REVERSED IN PART, and REMANDED to the Magistrate Judge for further consideration of Plaintiff's request for a preliminary injunction. In particular, the Magistrate Judge shall give further consideration to all of Plaintiff's allegations and whether he is likely to suffer from irreparable harm as a result of any of those allegations. Accordingly, Plaintiff's Motion, (Doc. 9), is DENIED with respect

¹ The undersigned also reviewed the Magistrate Judge Lanzillo's Order, (Doc. 114), in Case No. 1:17-18, as that Order was identified as a basis for the R&R's conclusions.

to his request for a temporary restraining order and HELD IN ABEYANCE with respect to his request or a preliminary injunction.

IT IS SO ORDERED.

November 26, 2019

s/Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via First-Class U.S. Mail):

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